

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 14-0329 CAF**

**RONALD G. NEFFORD,
Complainant**

v.

**CHRYSLER GROUP LLC,
Respondent**

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BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

On August 8, 2014, Ronald G. Nefford ("Complainant") filed a petition seeking relief pursuant to Texas Occupations Code § 2301.204 and/or §§ 2301.601-2301.613 (Lemon Law) for alleged warrantable defects in a motor vehicle manufactured by Chrysler Group LLC ("Respondent"). Complainant sought to have the vehicle repaired or repurchased/replaced but did not appear at the hearing to provide testimony to support his complaint. Respondent filed a motion to dismiss the complaint based on Complainant's non-appearance. Based on the circumstances, good cause exists to grant Respondent's motion to dismiss the complaint.

I. PROCEDURAL HISTORY, NOTICE AND JURISDICTION

The hearing in this case convened and the record was closed on December 11, 2014, in Corpus Christi, Texas, before Hearings Examiner Edward Sandoval. Complainant did not appear and was not represented at the hearing. Jan Kershaw, Early Resolution Case Manager, represented Respondent. Also present for Respondent was Stuart Ritchey, Technical Advisor.

On October 20, 2014, the Texas Department of Motor Vehicles, Office of Administrative Hearings (OAH) issued a Notice of Hearing to the parties advising them that a hearing was scheduled on Complainant's Lemon Law complaint on December 11, 2014. The Notice was mailed via certified mail, return receipt requested, to Complainant at 426 E. Miller Ave., Kingsville, TX 78363. The return receipt was signed by Mr. Nefford on October 24, 2014. Complainant did not appear at the hearing location at the scheduled time and date. Respondent moved for a dismissal of Complainant's petition.

II. FINDINGS OF FACT

1. Complainant filed a Lemon Law complaint alleging defects in his 2012 Chrysler Town and Country van on August 8, 2014.

2. On October 20, 2014, the staff of the Office of Administrative Hearings (OAH) timely mailed a Notice of Hearing by certified mail, return receipt requested, to Complainant's last known mailing address at 426 E. Miller Ave., Kingsville, TX 78363. The Notice of Hearing contained information regarding the date, time, and place of the hearing, the statutes involved, the legal authorities under which the hearing would be held, and the matters asserted.
3. The Notice of Hearing also contained language on page two informing the parties that their failure to appear will not prevent the hearings examiner from issuing a decision and order granting relief to an appearing party.
4. Complainant signed the return receipt indicating receipt of the Notice of Hearing on October 24, 2014.
5. The hearing on the merits convened and the record was closed on December 11, 2014, in Corpus Christi, Texas, before Hearings Examiner Edward Sandoval. Complainant did not appear and was not represented at the hearing. Jan Kershaw, Early Resolution Case Manager, represented Respondent.
6. Respondent moved for dismissal of Complainant's Lemon Law complaint, since Complainant failed to appear to offer testimony.

III. CONCLUSIONS OF LAW

1. The Texas Department of Motor Vehicles (Department) has jurisdiction over this matter. Tex. Occ. Code §§ 2301.601-2301.613 (Lemon Law).
2. A hearings examiner of the Department's Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation of a decision with findings of fact and conclusions of law, and the issuance of a final order. Tex. Occ. Code § 2301.704.
3. Complainant timely filed a complaint with the Department. Tex. Occ. Code § 2301.204; 43 Tex. Admin. Code § 215.202.
4. The parties received proper notice of the hearing. Tex. Gov't Code §§ 2001.051, 2001.052; 43 Tex. Admin. Code § 215.206(2).
5. Notice of the hearing was sufficient to allow dismissal of the complaint for want of prosecution under Department rules. 43 Tex. Admin. Code § 215.58(a).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is **ORDERED** that Complainant's Lemon Law complaint is hereby **DISMISSED** for want of prosecution.

SIGNED December 17, 2014



**EDWARD SANDOVAL
CHIEF HEARINGS EXAMINER
OFFICE OF ADMINISTRATIVE HEARINGS
TEXAS DEPARTMENT OF MOTOR VEHICLES**